

78B-15-101. Title.

This chapter is known as the "Utah Uniform Parentage Act."

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-102. Definitions.

As used in this chapter:

(1) "Adjudicated father" means a man who has been adjudicated by a tribunal to be the father of a child.

(2) "Alleged father" means a man who alleges himself to be, or is alleged to be, the genetic father or a possible genetic father of a child, but whose paternity has not been determined.

(3) "Assisted reproduction" means a method of causing pregnancy other than sexual intercourse. The term includes:

- (a) intrauterine insemination;
- (b) donation of eggs;
- (c) donation of embryos;
- (d) in vitro fertilization and transfer of embryos; and
- (e) intracytoplasmic sperm injection.

(4) "Birth expenses" means all medical costs associated with the birth of a child, including the related expenses for the biological mother during her pregnancy and delivery.

(5) "Birth mother" means the biological mother of a child.

(6) "Child" means an individual of any age whose parentage may be determined under this chapter.

(7) "Commence" means to file the initial pleading seeking an adjudication of parentage in the appropriate tribunal of this state.

(8) "Declarant father" means a male who, along with the biological mother claims to be the genetic father of a child, and signs a voluntary declaration of paternity to establish the man's paternity.

(9) "Determination of parentage" means the establishment of the parent-child relationship by the signing of a valid declaration of paternity under Part 3, Voluntary Declaration of Paternity Act, or adjudication by a tribunal.

(10) "Donor" means an individual who produces eggs or sperm used for assisted reproduction, whether or not for consideration. The term does not include:

- (a) a husband who provides sperm, or a wife who provides eggs, to be used for assisted reproduction by the wife;
- (b) a woman who gives birth to a child by means of assisted reproduction, except as otherwise provided in Part 8, Gestational Agreement; or
- (c) a parent under Part 7, Child of Assisted Reproduction, or an intended parent under Part 8, Gestational Agreement.

(11) "Ethnic or racial group" means, for purposes of genetic testing, a recognized group that an individual identifies as all or part of the individual's ancestry or that is so identified by other information.

(12) "Financial support" means a base child support award as defined in Section 78B-12-102, all past-due support which accrues under an order for current periodic

payments, and sum certain judgments for past-due support.

(13) "Genetic testing" means an analysis of genetic markers to exclude or identify a man as the father or a woman as the mother of a child. The term includes an analysis of one or a combination of the following:

- (a) deoxyribonucleic acid; or
- (b) blood-group antigens, red-cell antigens, human-leukocyte antigens, serum enzymes, serum proteins, or red-cell enzymes.

(14) "Gestational mother" means an adult woman who gives birth to a child under a gestational agreement.

(15) "Man," as defined in this chapter, means a male individual of any age.

(16) "Medical support" means a provision in a support order that requires the purchase and maintenance of appropriate insurance for health and dental expenses of dependent children, and assigns responsibility for uninsured medical expenses.

(17) "Parent" means an individual who has established a parent-child relationship under Section 78B-15-201.

(18) "Parent-child relationship" means the legal relationship between a child and a parent of the child. The term includes the mother-child relationship and the father-child relationship.

(19) "Paternity index" means the likelihood of paternity calculated by computing the ratio between:

- (a) the likelihood that the tested man is the father, based on the genetic markers of the tested man and child, conditioned on the hypothesis that the tested man is the father of the child; and

- (b) the likelihood that the tested man is not the father, based on the genetic markers of the tested man and child, conditioned on the hypothesis that the tested man is not the father of the child and that the father is of the same ethnic or racial group as the tested man.

(20) "Presumed father" means a man who, by operation of law under Section 78B-15-204, is recognized as the father of a child until that status is rebutted or confirmed as set forth in this chapter.

(21) "Probability of paternity" means the measure, for the ethnic or racial group to which the alleged father belongs, of the probability that the man in question is the father of the child, compared with a random, unrelated man of the same ethnic or racial group, expressed as a percentage incorporating the paternity index and a prior probability.

(22) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(23) "Signatory" means an individual who authenticates a record and is bound by its terms.

(24) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, any territory, Native American Tribe, or insular possession subject to the jurisdiction of the United States.

(25) "Support-enforcement agency" means a public official or agency authorized under Title IV-D of the Social Security Act which has the authority to seek:

- (a) enforcement of support orders or laws relating to the duty of support;
- (b) establishment or modification of child support;

- (c) determination of parentage; or
- (d) location of child-support obligors and their income and assets.

(26) "Tribunal" means a court of law, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-103. Scope -- Choice of law.

- (1) This chapter applies to determinations of parentage in this state.
- (2) The tribunal shall apply the law of this state to adjudicate the parent-child relationship. The applicable law may not depend upon:
 - (a) the place of birth of the child; or
 - (b) the past or present residence of the child.
- (3) This chapter may not create, enlarge, or diminish parental rights or duties under other laws of this state.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-104. Adjudication -- Jurisdiction.

- (1) The district court, the juvenile court, and the Office of Recovery Services in accordance with Section 62A-11-304.2 and Title 63G, Chapter 4, Administrative Procedures Act, are authorized to adjudicate parentage under Parts 1 through 6, and Part 9 of this chapter.
- (2) The district court and the juvenile court have jurisdiction over proceedings under Parts 7 and 8.
- (3) The court shall, without adjudicating paternity, dismiss a petition that is filed under this chapter by an unmarried biological father if he is not entitled to consent to the adoption of the child under Sections 78B-6-121 and 78B-6-122.

Amended by Chapter 237, 2010 General Session

78B-15-105. Protection of participants.

Proceedings under this chapter are subject to other laws of this state governing the health, safety, privacy, and liberty of a child or other individual who could be jeopardized by disclosure of identifying information, including address, telephone number, place of employment, Social Security number, the child's day-care facility, or school.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-106. Determination of maternity.

Provisions of this chapter relating to determination of paternity also apply to determinations of maternity.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-107. Effect.

An adjudication or declaration of paternity shall be filed with the state registrar in accordance with Section 26-2-5.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-108. Obligation to provide address.

A party to an action under this chapter has a continuing obligation to keep the tribunal informed of the party's current address.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-109. Limitation on recovery from the obligor.

The obligor's liabilities for past support are limited to the period of four years preceding the commencement of an action.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-110. Duty of attorney general and county attorney.

Whenever the state commences an action under this chapter, it shall be the duty of the attorney general or the county attorney of the county where the obligee resides to represent the state. Neither the attorney general nor the county attorney represents or has an attorney-client relationship with the obligee or the obligor in carrying out his responsibilities under this chapter.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-111. Default judgment.

Utah Rule of Civil Procedure 55, Default Judgment, shall apply to paternity actions commenced under this chapter.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-112. Standard of proof.

The standard of proof in a trial to determine paternity is "by clear and convincing evidence."

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-113. Parent-time rights of father.

(1) If the tribunal determines that the alleged father is the father, it may upon its own motion or upon motion of the father, order parent-time rights in accordance with Sections 30-3-32 through 30-3-37 as it considers appropriate under the circumstances.

(2) Parent-time rights may not be granted to a father if the child has been subsequently adopted.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-114. Social Security number in tribunal records.

The Social Security number of any individual who is subject to a paternity determination shall be placed in the records relating to the matter.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-115. Settlement agreements.

An agreement of settlement with the alleged father is binding only when approved by the tribunal.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-201. Establishment of parent-child relationship.

(1) The mother-child relationship is established between a woman and a child by:

- (a) the woman's having given birth to the child, except as otherwise provided in Part 8, Gestational Agreement;
- (b) an adjudication of the woman's maternity;
- (c) adoption of the child by the woman; or
- (d) an adjudication confirming the woman as a parent of a child born to a gestational mother if the agreement was validated under Part 8, Gestational Agreement, or is enforceable under other law.

(2) The father-child relationship is established between a man and a child by:

- (a) an un rebutted presumption of the man's paternity of the child under Section 78B-15-204;
- (b) an effective declaration of paternity by the man under Part 3, Voluntary Declaration of Paternity, unless the declaration has been rescinded or successfully challenged;
- (c) an adjudication of the man's paternity;
- (d) adoption of the child by the man;
- (e) the man having consented to assisted reproduction by a woman under Part 7, Assisted Reproduction, which resulted in the birth of the child; or
- (f) an adjudication confirming the man as a parent of a child born to a gestational mother if the agreement was validated under Part 8, Gestational Agreement, or is enforceable under other law.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-202. No discrimination based on marital status.

A child born to parents who are not married to each other whose paternity has been determined under this chapter has the same rights under the law as a child born to parents who are married to each other.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-203. Consequences of establishment of parentage.

Unless parental rights are terminated, a parent-child relationship established under this chapter applies for all purposes, except as otherwise specifically provided by other law of this state.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-204. Presumption of paternity.

(1) A man is presumed to be the father of a child if:

(a) he and the mother of the child are married to each other and the child is born during the marriage;

(b) he and the mother of the child were married to each other and the child is born within 300 days after the marriage is terminated by death, annulment, declaration of invalidity, or divorce, or after a decree of separation;

(c) before the birth of the child, he and the mother of the child married each other in apparent compliance with law, even if the attempted marriage is or could be declared invalid, and the child is born during the invalid marriage or within 300 days after its termination by death, annulment, declaration of invalidity, or divorce or after a decree of separation; or

(d) after the birth of the child, he and the mother of the child married each other in apparent compliance with law, whether or not the marriage is, or could be declared, invalid, he voluntarily asserted his paternity of the child, and there is no other presumptive father of the child, and:

(i) the assertion is in a record filed with the Office of Vital Records;

(ii) he agreed to be and is named as the child's father on the child's birth certificate; or

(iii) he promised in a record to support the child as his own.

(2) A presumption of paternity established under this section may only be rebutted in accordance with Section 78B-15-607.

(3) If a child has an adjudicated father, the results of genetic testing are inadmissible to challenge paternity except as set forth in Section 78B-15-607.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-301. Declaration of paternity.

The mother of a child and a man claiming to be the genetic father of the child may sign a declaration of paternity to establish the paternity of the child.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-302. Execution of declaration of paternity.

(1) A declaration of paternity must:

(a) be in a record;

(b) be signed, or otherwise authenticated, under penalty of perjury, by the mother and by the declarant father;

(c) be signed by the birth mother and declarant father in the presence of two

witnesses who are not related by blood or marriage; and

(d) state that the child whose paternity is being declared:

(i) does not have a presumed father, or has a presumed father whose full name is stated; and

(ii) does not have another declarant or adjudicated father;

(e) state whether there has been genetic testing and, if so, that the declarant man's claim of paternity is consistent with the results of the testing; and

(f) state that the signatories understand that the declaration is the equivalent of a legal finding of paternity of the child and that a challenge to the declaration is permitted only under the limited circumstances described in Section 78B-15-307.

(2) If either the birth mother or the declarant father is a minor, the voluntary declaration must also be signed by that minor's parent or legal guardian.

(3) A declaration of paternity is void if it:

(a) states that another man is a presumed father, unless a denial of paternity signed or otherwise authenticated by the presumed father is filed with the Office of Vital Records in accordance with Section 78B-15-303;

(b) states that another man is a declarant or adjudicated father; or

(c) falsely denies the existence of a presumed, declarant, or adjudicated father of the child.

(4) A presumed father may sign or otherwise authenticate an acknowledgment of paternity.

(5) The declaration of paternity shall be in a form prescribed by the Office of Vital Records and shall be accompanied with a written and verbal notice of the alternatives to, the legal consequences of, and the rights and responsibilities that arise from signing the declaration.

(6) The Social Security number of any person who is subject to declaration of paternity shall be placed in the records relating to the matter.

(7) The declaration of paternity shall become an amendment to the original birth certificate. The original certificate and the declaration shall be marked as to be distinguishable. The declaration may be included as part of subsequently issued certified copies of the birth certificate. Alternatively, electronically issued copies of a certificate may reflect the amended information and the date of the amendment only.

(8) A declaration of paternity may be completed and signed any time after the birth of the child. A declaration of paternity may not be signed or filed after consent to or relinquishment for adoption has been signed.

(9) A declaration of paternity shall be considered effective when filed and entered into a database established and maintained by the Office of Vital Records.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-303. Denial of paternity.

A presumed or declarant father may sign a denial of his paternity. The denial is valid only if:

(1) a declaration of paternity signed, or otherwise authenticated, by another man is filed pursuant to Section 78B-15-305;

(2) the denial is in a form prescribed by and filed with the Office of Vital

Records, and is signed, or otherwise authenticated, under penalty of perjury; and

(3) the presumed or declarant father has not previously:

(a) declared his paternity, unless the previous declaration has been rescinded pursuant to Section 78B-15-306 or successfully challenged pursuant to Section 78B-15-307; or

(b) been adjudicated to be the father of the child.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-304. Rules for declaration and denial of paternity.

(1) A declaration of paternity and a denial of paternity shall be contained in a single document. If the declaration and denial are both necessary, neither is valid until both are signed and filed.

(2) A declaration of paternity or a denial of paternity may not be signed before the birth of the child.

(3) Subject to Subsection (1), a declaration of paternity or denial of paternity takes effect on the birth of the child or the filing of the document with the Office of Vital Records, whichever occurs later.

(4) A declaration of paternity or denial of paternity signed by a minor and by the minor's parent or legal guardian is valid if it is otherwise in compliance with this chapter.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-305. Effect of declaration or denial of paternity.

(1) Except as otherwise provided in Sections 78B-15-306 and 78B-15-307, a valid declaration of paternity filed with the Office of Vital Records is equivalent to a legal finding of paternity of a child and confers upon the declarant father all of the rights and duties of a parent.

(2) When a declaration of paternity is filed, it shall be recognized as a basis for a child support order without any further requirement or proceeding regarding the establishment of paternity.

(a) The liabilities of the father include, but are not limited to, the reasonable expense of the mother's pregnancy and confinement and for the education, necessary support, and any funeral expenses for the child.

(b) When a father declares paternity, his liability for past amounts due is limited to the period of four years immediately preceding the date that the voluntary declaration of paternity was filed.

(3) Except as otherwise provided in Sections 78B-15-306 and 78B-15-307, a valid denial of paternity by a presumed or declarant father filed with the Office of Vital Records in conjunction with a valid declaration of paternity is equivalent to a legal finding of the nonpaternity of the presumed or declarant father and discharges the presumed or declarant father from all rights and duties of a parent. If a valid denial of paternity is filed with the Office of Vital Records, the declarant or presumed father may not recover child support he paid prior to the time of filing.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-306. Proceeding for rescission.

(1) A signatory may rescind a declaration of paternity or denial of paternity by filing a voluntary rescission document with the Office of Vital Records in a form prescribed by the office before the earlier of:

(a) 60 days after the effective date of the declaration or denial, as provided in Sections 78B-15-303 and 78B-15-304; or

(b) the date of notice of the first adjudicative proceeding to which the signatory is a party, before a tribunal to adjudicate an issue relating to the child, including a proceeding that establishes support.

(2) Upon receiving a voluntary rescission document from a signatory under Subsection (1), the Office of Vital Records shall provide notice of the rescission, by mail, to the other signatory at the last-known address of that signatory.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-307. Challenge after expiration of period for rescission.

(1) After the period for rescission under Section 78B-15-306 has expired, a signatory of a declaration of paternity or denial of paternity, or a support-enforcement agency, may commence a proceeding to challenge the declaration or denial only on the basis of fraud, duress, or material mistake of fact.

(2) A party challenging a declaration of paternity or denial of paternity has the burden of proof.

(3) A challenge brought on the basis of fraud or duress may be commenced at any time.

(4) A challenge brought on the basis of a material mistake of fact may be commenced within four years after the declaration is filed with the Office of Vital Records. For the purposes of this Subsection (4), if the declaration of paternity was filed with the Office of Vital Records prior to May 1, 2005, a challenge may be brought within four years after May 1, 2005.

(5) For purposes of Subsection (4), genetic test results that exclude a declarant father or that rebuttably identify another man as the father in accordance with Section 78B-15-505 constitute a material mistake of fact.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-308. Procedure for rescission or challenge.

(1) Every signatory to a declaration of paternity and any related denial of paternity must be made a party to a proceeding to rescind or challenge the declaration or denial.

(2) For the purpose of rescission of, or challenge to, a declaration of paternity or denial of paternity, a signatory submits to personal jurisdiction of this state by signing the declaration or denial, effective upon the filing of the document with the Office of Vital Records.

(3) Except for good cause shown, during the pendency of a proceeding to rescind or challenge a declaration of paternity or denial of paternity, the tribunal may not suspend the legal responsibilities of a signatory arising from the declaration,

including the duty to pay child support.

(4) A proceeding to rescind or to challenge a declaration of paternity or denial of paternity must be conducted in the same manner as a proceeding to adjudicate parentage under Part 6, Adjudication of Parentage.

(5) At the conclusion of a proceeding to rescind or challenge a declaration of paternity or denial of paternity, the tribunal shall order the Office of Vital Records to amend the birth record of the child, if appropriate.

(6) If the declaration is rescinded, the declarant father may not recover child support he paid prior to the entry of an order of rescission.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-309. Ratification barred.

A tribunal or administrative agency conducting a judicial or administrative proceeding may not ratify an unchallenged declaration of paternity.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-310. Full faith and credit.

A tribunal of this state shall give full faith and credit to a declaration of paternity or denial of paternity effective in another state if the declaration or denial has been signed and is otherwise in compliance with the law of the other state.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-311. Forms for declaration and denial of paternity and for rescission of paternity.

(1) To facilitate compliance with this part, the Office of Vital Records shall prescribe forms for the declaration, denial, and rescission of paternity.

(2) A valid declaration of paternity or denial of paternity is not affected by a later modification of the prescribed form.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-312. Release of information.

The Office of Vital Records may release information relating to the declaration of paternity or denial of paternity to a signatory of the declaration or denial and to tribunals and federal, tribal, and state support-enforcement agencies of this or another state.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-313. Adoption of rules.

The Office of Vital Records may adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this part.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-401. Maintenance of records.

(1) The Office of Vital Records shall register the following records which are filed with the office:

- (a) all declarations of paternity;
- (b) all judicial and administrative determinations of paternity; and
- (c) all notices of proceedings to establish paternity which are filed pursuant to Sections 78B-6-110, 78B-6-120, 78B-6-121, and 78B-6-122.

(2) A notice of initiation of paternity proceedings may not be accepted into the registry unless accompanied by a copy of the pleading which has been filed with the court to establish paternity.

(3) A notice of initiation of paternity proceedings may not be filed if another man is the adjudicated or declarant father.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-402. Effect of registration.

(1) An unmarried biological father who desires to be notified of a proceeding for adoption of a child must file a notice of the initiation of paternity proceedings as required by Sections 78B-6-110, 78B-6-120, 78B-6-121, and 78B-6-122.

(2) A registrant shall promptly notify the registry in a record of any change in the information registered. The Office of Vital Records shall incorporate all new information received into its records but need not affirmatively seek to obtain current information for incorporation in the registry.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-403. Notice of proceeding.

Notice of an adoption proceeding shall be given to unmarried biological fathers pursuant to Section 78B-6-110.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-404. Required form.

(1) The Office of Vital Records shall prepare a form to be filed with the agency. The form shall require the signature of the registrant and state that the form is signed under penalty of perjury.

(2) The form shall also state that:

(a) a timely filing of notice of the initiation of paternity proceedings which is filed pursuant to Subsection 78B-15-402(1) entitles the registrant to notice of a proceeding for adoption of the child;

(b) a timely filing does not commence a proceeding to establish paternity;

(c) the information disclosed on the form may be used against the registrant to establish paternity;

(d) services to assist in establishing paternity of a child who is not placed for adoption are available to the registrant through the Office of Recovery Services;

(e) the registrant should also file in another state if conception or birth of the

child occurred in the other state;

(f) information on registries of other states is available from the Office of Vital Records; and

(g) procedures exist to remove the filing of a proceeding to establish paternity if the proceeding is dismissed, or if a finding of paternity is rescinded or set aside under this chapter.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-405. Furnishing of information -- Confidentiality.

(1) The Office of Vital Records shall send a copy of the filing to a person or entity set forth in Subsection (2), who has requested a copy. The copy of the filing shall be sent to the most recent address provided by the requestor.

(2) Information contained in records which are filed pursuant to Section 78B-15-401 is confidential and may be released on request only to:

(a) a tribunal or a person designated by the tribunal;

(b) the mother of the child who is the subject of the filing;

(c) an agency authorized by other law to receive the information;

(d) a licensed child-placing agency;

(e) the Office of Recovery Services, the Office of the Attorney General, or a support-enforcement agency of another state or tribe;

(f) a party or the party's attorney of record in a proceeding under this chapter or in a proceeding for adoption of, or for termination of parental rights regarding, a child who is the subject of the filing; and

(g) the registry of paternity in another state.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-406. Penalty for releasing information.

A person who intentionally or knowingly, releases confidential information from the Office of Vital Records which is filed pursuant to Section 78B-15-401 to a person or agency not authorized to receive the information under Section 78B-15-405 is guilty of a class B misdemeanor.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-407. Removal of registration.

The Office of Vital Records may remove a registration in accordance with rules adopted by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-408. Fees for registry.

(1) A fee may not be charged to remove a registration.

(2) Except as otherwise provided in Subsection (3), the Office of Vital Records

may charge a reasonable fee for registering records pursuant to Section 78B-15-401, making a search of the registry, and for furnishing a certificate.

(3) The Office of Recovery Services, the Office of the Attorney General, and support-enforcement agencies of other states or tribes may not be required to pay the fee authorized by Subsection (2).

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-409. Search of records -- Certificate.

(1) Upon the request of an individual, tribunal, or agency identified in Section 78B-15-405, the Office of Vital Records shall search its records for any registration made pursuant to Section 78B-15-401 and furnish to the requestor a certificate of search which shall be signed on behalf of the office and state that:

- (a) a search has been made of the records of the Office of Vital Records; and
- (b) a registration containing the information required to identify the registrant:
 - (i) has been found and is attached to the certificate of search; or
 - (ii) has not been found.

(2) A petitioner shall file the certificate of search with the tribunal in connection with a proceeding for adoption.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-410. Admissibility of information.

A certificate of search of the registry of paternity in this or another state is admissible in a proceeding for adoption of a child and, if relevant, in other legal proceedings.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-501. Scope of part.

This part governs genetic testing of an individual to determine parentage, whether the individual:

- (1) voluntarily submits to testing; or
- (2) is tested pursuant to an order of a tribunal or a support-enforcement agency.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-502. Order for testing.

(1) Upon the motion of any party to the action, except as otherwise provided in this part and Part 6, Adjudication of Parentage, the tribunal shall order the child and other designated individuals to submit to genetic testing if the request for testing is supported by the sworn statement of a party to the proceeding:

- (a) alleging paternity and stating facts establishing a reasonable probability of the requisite sexual contact between the individuals; or
- (b) denying paternity and stating facts establishing a possibility that sexual contact between the individuals, if any, did not result in the conception of the child.

(2) If a request for genetic testing of a child is made before birth, the tribunal may not order in-utero testing.

(3) If two or more men are subject to an order for genetic testing, the testing may be ordered concurrently or sequentially.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-503. Requirements for genetic testing.

(1) Genetic testing must be of a type reasonably relied upon by experts in the field of genetic testing and performed in a testing laboratory accredited by:

- (a) the American Association of Blood Banks, or a successor to its functions;
- (b) the American Society for Histocompatibility and Immunogenetics, or a successor to its functions; or
- (c) an accrediting body designated by the federal Secretary of Health and Human Services.

(2) A specimen used in genetic testing may consist of one or more samples, or a combination of samples, of blood, buccal cells, bone, hair, or other body tissue or fluid. The specimen used in the testing need not be of the same kind for each individual undergoing genetic testing.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-504. Report of genetic testing.

(1) A report of genetic testing must be in a record and signed under penalty of perjury by a designee of the testing laboratory. A report made under the requirements of this part is self-authenticating.

(2) Documentation from the testing laboratory of the following information is sufficient to establish a reliable chain of custody that allows the results of genetic testing to be admissible without testimony:

- (a) the names and photographs of the individuals whose specimens have been taken;
- (b) the names of the individuals who collected the specimens;
- (c) the places and dates the specimens were collected;
- (d) the names of the individuals who received the specimens in the testing laboratory;
- (e) the dates the specimens were received; and
- (f) the finger prints of the individuals whose specimens have been taken.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-505. Genetic testing results -- Rebuttal.

(1) Under this chapter, a man is presumed to be identified as the father of a child if the genetic testing complies with this part and the results disclose that:

- (a) the man has at least a 99% probability of paternity, using a prior probability of 0.50, as calculated by using the combined paternity index obtained in the testing; and
- (b) a combined paternity index of at least 100 to 1.

(2) A man identified under Subsection (1) as the father of the child may rebut the genetic testing results only by other genetic testing satisfying the requirements of this part which:

- (a) excludes the man as a genetic father of the child; or
- (b) identifies another man as the possible father of the child.

(3) If an issue is raised as to whether the appropriate ethnic or racial group database was used by the testing laboratory, the testing laboratory will be asked to rerun the test using the correct ethnic or racial group database. If the testing laboratory does not have an adequate database, another testing laboratory may be engaged to perform the calculations.

(4) If a presumption of paternity is not rebutted by a second test, the tribunal shall issue an order establishing paternity.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-506. Costs of genetic testing.

(1) Subject to assessment of costs under Part 6, Adjudication of Parentage, the cost of initial genetic testing shall be advanced:

- (a) by a support-enforcement agency in a proceeding in which the support-enforcement agency is providing services;
- (b) by the individual who made the request;
- (c) as agreed by the parties; or
- (d) as ordered by the tribunal.

(2) In cases in which the cost is advanced by the support-enforcement agency, the agency may seek reimbursement from a man who is rebuttably identified as the father.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-507. Additional genetic testing.

The tribunal shall order additional genetic testing upon the request of a party who contests the result of the original testing. If the previous genetic testing identified a man as the father of the child under Section 78B-15-505, the tribunal may not order additional testing unless the party provides advance payment for the testing. If the tribunal orders a second genetic test in accordance with this section, the additional testing must be completed within 45 days of the tribunal's order or the requesting party's objection to the first test will be automatically denied. If failure to complete the test occurs because of noncooperation of the mother or unavailability of the child, the time will be tolled.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-508. Genetic testing when specimens not available.

(1) Subject to Subsection (2), if a genetic-testing specimen is not available from a man who may be the father of a child, for good cause and under extraordinary circumstances the tribunal considers to be just, the tribunal may order the following

individuals to submit specimens for genetic testing:

- (a) the parents of the man;
- (b) brothers and sisters of the man;
- (c) other children of the man and their mothers; and
- (d) other relatives of the man necessary to complete genetic testing.

(2) Issuance of an order under this section requires a finding that a need for genetic testing outweighs the legitimate interests of the individual sought to be tested.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-509. Deceased individual.

For good cause shown, the tribunal may order genetic testing of a deceased individual.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-510. Identical brothers.

(1) The tribunal may order genetic testing of a brother of a man identified as the father of a child if the man is commonly believed to have an identical brother and evidence suggests that the brother may be the genetic father of the child.

(2) If each brother satisfies the requirements as the identified father of the child under Section 78B-15-505 without consideration of another identical brother being identified as the father of the child, the tribunal may rely on nongenetic evidence to adjudicate which brother is the father of the child.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-511. Confidentiality of genetic testing.

Release of the report of genetic testing for parentage is controlled by Title 63G, Chapter 2, Government Records Access and Management Act.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-601. Proceeding authorized -- Definition.

(1) An adjudicative proceeding may be maintained to determine the parentage of a child. A judicial proceeding is governed by the rules of civil procedure. An administrative proceeding is governed by Title 63G, Chapter 4, Administrative Procedures Act.

(2) For the purposes of this part, "divorce" also includes an annulment.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-602. Standing to maintain proceeding.

Subject to Part 3, Voluntary Declaration of Paternity, and Sections 78B-15-607 and 78B-15-609, a proceeding to adjudicate parentage may be maintained by:

- (1) the child;

- (2) the mother of the child;
- (3) a man whose paternity of the child is to be adjudicated;
- (4) the support-enforcement agency or other governmental agency authorized by other law;
- (5) an authorized adoption agency or licensed child-placing agency;
- (6) a representative authorized by law to act for an individual who would otherwise be entitled to maintain a proceeding but who is deceased, incapacitated, or a minor; or
- (7) an intended parent under Part 8, Gestational Agreement.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-603. Parties to proceeding.

The following individuals shall be joined as parties in a proceeding to adjudicate parentage:

- (1) the mother of the child;
- (2) a man whose paternity of the child is to be adjudicated; and
- (3) the state pursuant to Section 78B-12-113.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-604. Personal jurisdiction.

(1) An individual may not be adjudicated to be a parent unless the tribunal has personal jurisdiction over the individual.

(2) A tribunal of this state having jurisdiction to adjudicate parentage may exercise personal jurisdiction over a nonresident individual, or the guardian or conservator of the individual, if the conditions prescribed in Section 78B-14-201 are fulfilled, or the individual has signed a declaration of paternity.

(3) Lack of jurisdiction over one individual does not preclude the tribunal from making an adjudication of parentage binding on another individual over whom the tribunal has personal jurisdiction.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-605. Venue.

Venue for a judicial proceeding to adjudicate parentage is in the county of this state in which:

- (1) the child resides or is found;
- (2) the respondent resides or is found if the child does not reside in this state; or
- (3) a proceeding for probate or administration of the presumed or alleged father's estate has been commenced.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-606. No limitation -- Child having no declarant or adjudicated father.

A proceeding to adjudicate the parentage of a child having no declarant or adjudicated father may be commenced at any time. If initiated after the child becomes an adult, only the child may initiate the proceeding.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-607. Limitation -- Child having presumed father.

(1) Paternity of a child conceived or born during a marriage with a presumed father as described in Subsection 78B-15-204(1)(a), (b), or (c), may be raised by the presumed father or the mother at any time prior to filing an action for divorce or in the pleadings at the time of the divorce of the parents.

(a) If the issue is raised prior to the adjudication, genetic testing may be ordered by the tribunal in accordance with Section 78B-15-608. Failure of the mother of the child to appear for testing may result in an order allowing a motherless calculation of paternity. Failure of the mother to make the child available may not result in a determination that the presumed father is not the father, but shall allow for appropriate proceedings to compel the cooperation of the mother. If the question of paternity has been raised in the pleadings in a divorce and the tribunal addresses the issue and enters an order, the parties are estopped from raising the issue again, and the order of the tribunal may not be challenged on the basis of material mistake of fact.

(b) If the presumed father seeks to rebut the presumption of paternity, then denial of a motion seeking an order for genetic testing or a decision to disregard genetic test results shall be based on a preponderance of the evidence.

(c) If the mother seeks to rebut the presumption of paternity, the mother has the burden to show by a preponderance of the evidence that it would be in the best interests of the child to disestablish the parent-child relationship.

(2) For the presumption outside of marriage described in Subsection 78B-15-204(1)(d), the presumption may be rebutted at any time if the tribunal determines that the presumed father and the mother of the child neither cohabited nor engaged in sexual intercourse with each other during the probable time of conception.

(3) The presumption may be rebutted by:

(a) genetic test results that exclude the presumed father;

(b) genetic test results that rebuttably identify another man as the father in accordance with Section 78B-15-505;

(c) evidence that the presumed father and the mother of the child neither cohabited nor engaged in sexual intercourse with each other during the probable time of conception; or

(d) an adjudication under this part.

(4) There is no presumption to rebut if the presumed father was properly served and there has been a final adjudication of the issue.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-608. Authority to deny motion for genetic testing or disregard test results.

(1) In a proceeding to adjudicate the parentage of a child having a presumed

father or to challenge the paternity of a child having a declarant father, the tribunal may deny a motion seeking an order for genetic testing of the mother, the child, and the presumed or declarant father, or if testing has been completed, the tribunal may disregard genetic test results that exclude the presumed or declarant father if the tribunal determines that:

- (a) the conduct of the mother or the presumed or declarant father estops that party from denying parentage; and

- (b) it would be inequitable to disrupt the father-child relationship between the child and the presumed or declarant father.

(2) In determining whether to deny a motion seeking an order for genetic testing or to disregard genetic test results under this section, the tribunal shall consider the best interest of the child, including the following factors:

- (a) the length of time between the proceeding to adjudicate parentage and the time that the presumed or declarant father was placed on notice that he might not be the genetic father;

- (b) the length of time during which the presumed or declarant father has assumed the role of father of the child;

- (c) the facts surrounding the presumed or declarant father's discovery of his possible nonpaternity;

- (d) the nature of the relationship between the child and the presumed or declarant father;

- (e) the age of the child;

- (f) the harm that may result to the child if presumed or declared paternity is successfully disestablished;

- (g) the nature of the relationship between the child and any alleged father;

- (h) the extent to which the passage of time reduces the chances of establishing the paternity of another man and a child-support obligation in favor of the child; and

- (i) other factors that may affect the equities arising from the disruption of the father-child relationship between the child and the presumed or declarant father or the chance of other harm to the child.

(3) If the tribunal denies a motion seeking an order for genetic testing or disregards genetic test results that exclude the presumed or declarant father, it shall issue an order adjudicating the presumed or declarant father to be the father of the child.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-609. Limitation -- Child having declarant father.

(1) If a child has a declarant father, a signatory to the declaration of paternity or denial of paternity or a support-enforcement agency may commence a proceeding seeking to rescind the declaration or denial or challenge the paternity of the child only within the time allowed under Section 78B-15-306 or 78B-15-307.

(2) A proceeding under this section is subject to the application of the principles of estoppel established in Section 78B-15-608.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-610. Joinder of judicial proceedings.

(1) Except as otherwise provided in Subsection (2), a judicial proceeding to adjudicate parentage may be joined with a proceeding for adoption, termination of parental rights, child custody or visitation, child support, divorce, annulment, legal separation or separate maintenance, probate or administration of an estate, or other appropriate proceeding.

(2) A respondent may not join a proceeding described in Subsection (1) with a proceeding to adjudicate parentage brought under Title 78B, Chapter 14, Uniform Interstate Family Support Act.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-611. Proceeding before birth.

A proceeding to determine parentage may be commenced before the birth of the child, but may not be concluded until after the birth of the child. The following actions may be taken before the birth of the child:

- (1) service of process;
- (2) discovery; and
- (3) except as prohibited by Section 78B-15-502, collection of specimens for genetic testing.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-612. Minor as party -- Representation.

(1) A minor is a permissible party, but is not a necessary party to a proceeding under this part.

(2) The tribunal may appoint an attorney guardian ad litem under Sections 78A-2-703 and 78A-6-902, or a private guardian ad litem under Section 78A-2-705, to represent a minor or incapacitated child if the child is a party.

Amended by Chapter 267, 2014 General Session

78B-15-613. Admissibility of results of genetic testing -- Expenses.

(1) Except as otherwise provided in Subsection (3), a record of a genetic-testing expert is admissible as evidence of the truth of the facts asserted in the report unless a party objects to its admission within 14 days after its receipt by the objecting party and cites specific grounds for exclusion. Unless a party files a timely objection, testimony shall be in affidavit form. The admissibility of the report is not affected by whether the testing was performed:

- (a) voluntarily or pursuant to an order of the tribunal; or
- (b) before or after the commencement of the proceeding.

(2) A party objecting to the results of genetic testing may call one or more genetic-testing experts to testify in person or by telephone, video conference, deposition, or another method approved by the tribunal. Unless otherwise ordered by the tribunal, the party offering the testimony bears the expense for the expert testifying.

(3) If a child has a presumed or declarant father, the results of genetic testing

are inadmissible to adjudicate parentage unless performed:

- (a) pursuant to Section 78B-15-503;
- (b) within the time periods set forth in this chapter; and
- (c) pursuant to a tribunal order or administrative process; or
- (d) with the consent of both the mother and the presumed or declarant father.

(4) If a child has an adjudicated father, the results of genetic testing are inadmissible to challenge paternity except as set forth in Sections 78B-15-607 and 78B-15-608.

(5) Copies of bills for genetic testing and for prenatal and postnatal health care for the mother and child which are furnished to the adverse party not less than 10 days before the date of a hearing are admissible to establish:

- (a) the amount of the charges billed; and
- (b) that the charges were reasonable, necessary, and customary.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-614. Consequences of failing to submit to genetic testing.

(1) An order for genetic testing is enforceable by contempt.

(2) If an individual whose paternity is being determined fails to submit to genetic testing ordered by the tribunal, the tribunal for that reason may adjudicate parentage contrary to the position of that individual.

(3) Genetic testing of the mother of a child is not a condition precedent to testing the child and a man whose paternity is being determined. If the mother is unavailable or fails to submit to genetic testing, the tribunal may order the testing of the child and every man who is potentially the father of the child.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-615. Admission of paternity authorized.

(1) A respondent in a proceeding to adjudicate parentage may admit to the paternity of a child by filing a pleading to that effect or by admitting paternity under penalty of perjury when making an appearance or during a hearing.

(2) If the tribunal finds that the admission of paternity satisfies the requirements of this section and finds that there is no reason to question the admission, the tribunal shall issue an order adjudicating the child to be the child of the man admitting paternity.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-616. Temporary order.

(1) In a proceeding under this part, the tribunal shall issue a temporary order for support of a child if the order is appropriate and the individual ordered to pay support is:

- (a) a presumed father of the child;
- (b) petitioning to have his paternity adjudicated;
- (c) identified as the father through genetic testing under Section 78B-15-505;
- (d) an alleged father who has failed to submit to genetic testing;
- (e) shown by clear and convincing evidence to be the father of the child; or

(f) the mother of the child.

(2) A temporary tribunal order may include provisions for custody and visitation as provided by other laws of this state.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-617. Rules for adjudication of paternity.

The tribunal shall apply the following rules to adjudicate the paternity of a child:

(1) The paternity of a child having a presumed, declarant, or adjudicated father may be disproved only by admissible results of genetic testing excluding that man as the father of the child or identifying another man as the father of the child.

(2) Unless the results of genetic testing are admitted to rebut other results of genetic testing, a man identified as the father of a child under Section 78B-15-505 must be adjudicated the father of the child, unless an exception is granted under Section 78B-15-608.

(3) If the tribunal finds that genetic testing under Section 78B-15-505 neither identifies nor excludes a man as the father of a child, the tribunal may not dismiss the proceeding. In that event, the tribunal shall order further testing.

(4) Unless the results of genetic testing are admitted to rebut other results of genetic testing, a man properly excluded as the father of a child by genetic testing must be adjudicated not to be the father of the child.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-618. Adjudication of parentage -- Jury trial prohibited.

A jury trial is prohibited to adjudicate paternity of a child.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-619. Adjudication of parentage -- Hearings -- Inspection of records.

(1) On request of a party and for good cause shown, the tribunal may close a proceeding under this part.

(2) A final order in a proceeding under this part is available for public inspection. Other papers and records are available only with the consent of the parties or on order of the tribunal for good cause.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-620. Adjudication of parentage -- Order on default.

The tribunal shall issue an order adjudicating the paternity of a man who:

(1) after service of process, is in default; and

(2) is found by the tribunal to be the father of a child.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-621. Adjudication of parentage -- Dismissal for want of

prosecution.

The tribunal may issue an order dismissing a proceeding commenced under this chapter for want of prosecution only without prejudice. An order of dismissal for want of prosecution purportedly with prejudice is void and has only the effect of a dismissal without prejudice.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-622. Order adjudicating parentage.

(1) The tribunal shall issue an order adjudicating whether a man alleged or claiming to be the father is the parent of the child.

(2) An order adjudicating parentage must identify the child by name and date of birth.

(3) Except as otherwise provided in Subsection (4), the tribunal may assess filing fees, reasonable attorney fees, fees for genetic testing, other costs, necessary travel, and other reasonable expenses incurred in a proceeding under this part. The tribunal may award attorney fees, which may be paid directly to the attorney, who may enforce the order in the attorney's own name.

(4) The tribunal may not assess fees, costs, or expenses against the support-enforcement agency of this state or another state, except as provided by law.

(5) On request of a party and for good cause shown, the tribunal may order that the name of the child be changed.

(6) If the order of the tribunal is at variance with the child's birth certificate, the tribunal shall order the Office of Vital Records to issue an amended birth registration.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-623. Binding effect of determination of parentage.

(1) Except as otherwise provided in Subsection (2), a determination of parentage is binding on:

(a) all signatories to a declaration or denial of paternity as provided in Part 3, Voluntary Declaration of Paternity; and

(b) all parties to an adjudication by a tribunal acting under circumstances that satisfy the jurisdictional requirements of Section 78B-14-201.

(2) A child is not bound by a determination of parentage under this chapter unless:

(a) the determination was based on an unrescinded declaration of paternity and the declaration is consistent with the results of genetic testing;

(b) the adjudication of parentage was based on a finding consistent with the results of genetic testing and the consistency is declared in the determination or is otherwise shown; or

(c) the child was a party or was represented in the proceeding determining parentage by a guardian ad litem.

(3) In a proceeding to dissolve a marriage, the tribunal is considered to have made an adjudication of the parentage of a child if the question of paternity is raised and the tribunal adjudicates according to Part 6, Adjudication of Parentage, and the

final order:

(a) expressly identifies a child as a "child of the marriage," "issue of the marriage," or similar words indicating that the husband is the father of the child; or

(b) provides for support of the child by the husband unless paternity is specifically disclaimed in the order.

(4) The tribunal is not considered to have made an adjudication of the parentage of a child if the child was born at the time of entry of the order and other children are named as children of the marriage, but that child is specifically not named.

(5) Once the paternity of a child has been adjudicated, an individual who was not a party to the paternity proceeding may not challenge the paternity, unless:

(a) the party seeking to challenge can demonstrate a fraud upon the tribunal;

(b) the challenger can demonstrate by clear and convincing evidence that the challenger did not know about the adjudicatory proceeding or did not have a reasonable opportunity to know of the proceeding; and

(c) there would be harm to the child to leave the order in place.

(6) A party to an adjudication of paternity may challenge the adjudication only under law of this state relating to appeal, vacation of judgments, or other judicial review.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-701. Scope.

This part does not apply to the birth of a child conceived by means of sexual intercourse, or as result of a gestational agreement as provided in Part 8, Gestational Agreement.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-702. Parental status of donor.

A donor is not a parent of a child conceived by means of assisted reproduction.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-703. Husband's paternity of child of assisted reproduction.

If a husband provides sperm for, or consents to, assisted reproduction by his wife as provided in Section 78B-15-704, he is the father of a resulting child born to his wife.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-704. Consent to assisted reproduction.

(1) A consent to assisted reproduction by a married woman must be in a record signed by the woman and her husband. This requirement does not apply to the donation of eggs for assisted reproduction by another woman.

(2) Failure of the husband to sign a consent required by Subsection (1), before or after the birth of the child, does not preclude a finding that the husband is the father of a child born to his wife if the wife and husband openly treat the child as their own.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-705. Limitation on husband's dispute of paternity.

(1) Except as otherwise provided in Subsection (2), the husband of a wife who gives birth to a child by means of assisted reproduction may not challenge his paternity of the child unless:

(a) within two years after learning of the birth of the child he commences a proceeding to adjudicate his paternity; and

(b) the tribunal finds that he did not consent to the assisted reproduction, before or after the birth of the child.

(2) A proceeding to adjudicate paternity may be maintained at any time if the tribunal determines that:

(a) the husband did not provide sperm for, or before or after the birth of the child consent to, assisted reproduction by his wife;

(b) the husband and the mother of the child have not cohabited since the probable time of assisted reproduction; and

(c) the husband never openly treated the child as his own.

(3) The limitation provided in this section applies to a marriage declared invalid after assisted reproduction.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-706. Effect of dissolution of marriage.

(1) If a marriage is dissolved before placement of eggs, sperm, or an embryo, the former spouse is not a parent of the resulting child unless the former spouse consented in a record that if assisted reproduction were to occur after a divorce, the former spouse would be a parent of the child.

(2) The consent of the former spouse to assisted reproduction may be revoked by that individual in a record at any time before placement of eggs, sperm, or embryos.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-707. Parental status of deceased spouse.

If a spouse dies before placement of eggs, sperm, or an embryo, the deceased spouse is not a parent of the resulting child unless the deceased spouse consented in a record that if assisted reproduction were to occur after death, the deceased spouse would be a parent of the child.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-801. Gestational agreement authorized.

(1) A prospective gestational mother, her husband if she is married, a donor or the donors, and the intended parents may enter into a written agreement providing that:

(a) the prospective gestational mother agrees to pregnancy by means of assisted reproduction;

(b) the prospective gestational mother, her husband if she is married, and the donors relinquish all rights and duties as the parents of a child conceived through assisted reproduction; and

(c) the intended parents become the parents of the child.

(2) The intended gestational mother may not currently be receiving Medicaid or any other state assistance.

(3) The intended parents shall be married, and both spouses must be parties to the gestational agreement.

(4) A gestational agreement is enforceable only if validated as provided in Section 78B-15-803.

(5) A gestational agreement does not apply to the birth of a child conceived by means of sexual intercourse or if neither intended parent is a donor.

(6) The parties to a gestational agreement shall be 21 years of age or older.

(7) The gestational mother's eggs may not be used in the assisted reproduction procedure.

(8) If the gestational mother is married, her husband's sperm may not be used in the assisted reproduction procedure.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-802. Requirements of petition.

(1) The intended parents and the prospective gestational mother may file a petition in the district tribunal to validate a gestational agreement.

(2) A petition to validate a gestational agreement may not be maintained unless either the mother or intended parents have been residents of this state for at least 90 days.

(3) The prospective gestational mother's husband, if she is married, must join in the petition.

(4) A copy of the gestational agreement must be attached to the petition.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-803. Hearing to validate gestational agreement.

(1) If the requirements of Subsection (2) are satisfied, a tribunal may issue an order validating the gestational agreement and declaring that the intended parents will be the parents of a child born during the term of the agreement.

(2) The tribunal may issue an order under Subsection (1) only on finding that:

(a) the residence requirements of Section 78B-15-802 have been satisfied and the parties have submitted to jurisdiction of the tribunal under the jurisdictional standards of this part;

(b) medical evidence shows that the intended mother is unable to bear a child or is unable to do so without unreasonable risk to her physical or mental health or to the unborn child;

(c) unless waived by the tribunal, a home study of the intended parents has been conducted in accordance with Sections 78B-6-128 through 78B-6-131, and the intended parents meet the standards of fitness applicable to adoptive parents;

(d) all parties have participated in counseling with a licensed mental health professional as evidenced by a certificate signed by the licensed mental health professional which affirms that all parties have discussed options and consequences of the agreement and presented to the tribunal;

(e) all parties have voluntarily entered into the agreement and understand its terms;

(f) the prospective gestational mother has had at least one pregnancy and delivery and her bearing another child will not pose an unreasonable health risk to the unborn child or to the physical or mental health of the prospective gestational mother;

(g) adequate provision has been made for all reasonable health-care expense associated with the gestational agreement until the birth of the child, including responsibility for those expenses if the agreement is terminated;

(h) the consideration, if any, paid to the prospective gestational mother is reasonable;

(i) all the parties to the agreement are 21 years of age or older;

(j) the gestational mother's eggs are not being used in the assisted reproduction procedure; and

(k) if the gestational mother is married, her husband's sperm is not being used in the assisted reproduction procedure.

(3) Whether to validate a gestational agreement is within the discretion of the tribunal, subject only to review for abuse of discretion.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-804. Inspection of records.

The proceedings, records, and identities of the individuals to a gestational agreement under this part are subject to inspection under the confidentiality standards applicable to adoptions as provided under other laws of this state.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-805. Exclusive, continuing jurisdiction.

Subject to the jurisdictional standards of Section 78B-13-201, the tribunal conducting a proceeding under this part has exclusive, continuing jurisdiction of all matters arising out of the gestational agreement until a child born to the gestational mother during the period governed by the agreement attains the age of 180 days.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-806. Termination of gestational agreement.

(1) After issuance of an order under this part, but before the prospective gestational mother becomes pregnant by means of assisted reproduction, the prospective gestational mother, her husband, or either of the intended parents may terminate the gestational agreement only by giving written notice of termination to all other parties.

(2) The tribunal for good cause shown also may terminate the gestational

agreement.

(3) An individual who terminates an agreement shall file notice of the termination with the tribunal. On receipt of the notice, the tribunal shall vacate the order issued under this part. An individual who does not notify the tribunal of the termination of the agreement is subject to appropriate sanctions.

(4) Neither a prospective gestational mother nor her husband, if any, is liable to the intended parents for terminating an agreement pursuant to this section.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-807. Parentage under validated gestational agreement.

(1) Upon birth of a child to a gestational mother, the intended parents shall file notice with the tribunal that a child has been born to the gestational mother within 300 days after assisted reproduction. Thereupon, the tribunal shall issue an order:

(a) confirming that the intended parents are the parents of the child;

(b) if necessary, ordering that the child be surrendered to the intended parents; and

(c) directing the Office of Vital Records to issue a birth certificate naming the intended parents as parents of the child.

(2) If the parentage of a child born to the gestational mother is in dispute as not the result of an assisted reproduction, the tribunal shall order genetic testing to determine the parentage of the child.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-808. Gestational agreement -- Miscellaneous provisions.

(1) A gestational agreement may provide for payment of consideration.

(2) A gestational agreement may not limit the right of the gestational mother to make decisions to safeguard her health or that of the embryo or fetus.

(3) After the issuance of an order under this part, subsequent marriage of the gestational mother does not affect the validity of a gestational agreement, and her husband's consent to the agreement is not required, nor is her husband a presumed father of the resulting child.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-809. Effect of nonvalidated gestational agreement.

(1) A gestational agreement, whether in a record or not, which is not validated by a tribunal is not enforceable.

(2) If a birth results under a gestational agreement that is not judicially validated as provided in this part, the parent-child relationship is determined as provided in Part 2, Parent-child Relationship.

(3) The individuals who are parties to a nonvalidated gestational agreement as intended parents may be held liable for support of the resulting child, even if the agreement is otherwise unenforceable. The liability under this Subsection (3) includes assessing all expenses and fees as provided in Section 78B-15-622.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-901. Uniformity of application and construction.

This chapter is a uniform law. In applying and construing this chapter, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among the states that enact it.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-15-902. Transitional provision.

A proceeding to adjudicate parentage which was commenced before May 1, 2005 is governed by the law in effect at the time the proceeding was commenced.

Renumbered and Amended by Chapter 3, 2008 General Session